

**Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.**

APPELLANT PRO SE:

**JASON ALTON HAYMAKER**  
Carlisle, Indiana

ATTORNEYS FOR APPELLEE:

**STEVE CARTER**  
Attorney General of Indiana

**MICHAEL GENE WORDEN**  
Deputy Attorney General  
Indianapolis, Indiana

**IN THE  
COURT OF APPEALS OF INDIANA**

JASON ALTON HAYMAKER,

Appellant-Defendant,

VS.

STATE OF INDIANA,

Appellee-Plaintiff.

)
)
)
)
)
)
)
)
)

No. 73A01-0601-CR-36

APPEAL FROM THE SHELBY CIRCUIT COURT  
The Honorable Charles D. O'Connor, Judge  
Cause No. 73C01-0304-FB-6

**August 29, 2006**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**FRIEDLANDER, Judge**

Jason Alton Haymaker, pro se, appeals the denial of his Motion to Correct Erroneous Sentence. He presents the following consolidated and restated issue for review: Did the trial court err in denying his motion?

We affirm.

Pursuant to a plea agreement, Haymaker pleaded guilty to intimidation, as a class C felony, and the State dismissed several other related charges in exchange. On July 24, 2003, the trial court accepted the plea agreement and sentenced Haymaker to the maximum term of eight years in prison, as specifically set forth in the plea agreement.<sup>1</sup> Thereafter, on January 9, 2006, Haymaker filed a pro se motion to correct erroneous sentence, which the trial court summarily denied the same day. Haymaker now appeals.

In *Robinson v. State*, 805 N.E.2d 783 (Ind. 2004), our Supreme Court clarified the circumstances under which a defendant may raise sentencing errors in a motion to correct sentence. The Court held that “a motion to correct sentence may only be used to correct sentencing errors that are clear from the face of the judgment imposing the sentence in light of statutory authority.” *Id.* at 787. As to sentencing claims that require consideration of matters outside the face of the sentencing judgment, the motion to correct sentence is an improper remedy. *Robinson v. State*, 805 N.E.2d 783. “Such claims may be raised only on direct appeal and, where appropriate, by post-conviction proceedings.” *Id.* at 787.

---

<sup>1</sup> The plea agreement provided for a fixed term of eight years in prison “all of which would be executed”. *Transcript* at 27.

In the instant case, Haymaker's motion is based on an alleged violation of *Blakely v. Washington*, 542 U.S. 296 (2004). That is, he claims his sentence is erroneous because it was enhanced without a jury determination of aggravating circumstances.

The claimed error is not apparent on the face of the sentencing judgment.<sup>2</sup> On the contrary, Haymaker's motion clearly requires consideration of matters outside the face of the sentencing judgment. Thus, his *Blakely* claim may not be presented by way of a motion to correct sentence.<sup>3</sup> *See Robinson v. State*, 805 N.E.2d 783. His motion was, therefore, properly denied.

Judgment affirmed.

MATHIAS, J., and BARNES, J., concur.

---

<sup>2</sup> We note that eight years is the statutorily authorized maximum sentence for a class C felony. Ind. Code Ann. § 35-50-2-6(a) (West, PREMISE through 2006 Public Laws approved and effective through March 15, 2006).

<sup>3</sup> In fact, a *Blakely* claim may only be raised on direct appeal. *See Walker v. State*, 843 N.E.2d 50 (Ind. Ct. App. 2006), *trans. denied*.